IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

TUESDAY, THE 12TH JUNE 2007 / 22ND JYAISHTA 1929

WP(C).No. 29765 of 2005(R)

OS.7/2002 of MUNSIFF COURT, KARUNAGAPPALLY

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PETITIONER:

HANEEFAKUTTY,
THARAYIL VEEDU, CLAPPINA VILLAGE,
KARUNAGAPPALLY TALUK.

BY ADV. SRI.B.KRISHNA MANI

RESPONDENT:

SAHADEVAN, VIDYA BHAVANAM,
ATHIKKAD THEKKUM MURI, KARUNAGAPPALLY TALUK.

BY ADV. SRI.T.GOPALAKRISHNAN
SRI.K.V.AJAI KUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 12/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 : TRUE COPY OF THE EXEUCTION PETITION DT.17.3.03 IN OS NO.7 OF 2002 BEFORE THE MUNSIFF COURT, KARUNAGAPPALLY.

EXT.P2 : TRUE COPY OF THE SCHEDULE OF PROPERTY.

EXT.P3 : TRUE COPY OF THE OBJECTION DT.1.8.05 IN OS NO.7 OF 2002 BEFORE THE MUNSIFF COURT, KARUNAGAPPALLY.

EXT.P4 : TRUE COPY OF THE OBJECTION DT.2.8.05 IN OS NO.7 OF 2002 BEFORE THE MUNSIFF COURT, KARUNAGAPPALLY.

EXT.P5 : TRUE COPY OF THE APPLICATION IN EA 252 OF 2005 DT.1.9.05 IN OS NO.7 OF 2002 BEFORE THE MUNSIFF COURT, KARUNAGAPPALLY.

EXT.P6 : TRUE COPY THE DISCHARGE SUMMARY ISSUED BY THE MEDICAL TRUST HOSPITAL, KOCHI.

EXT.P7 : TRUE COPY OF THE CARDIAC CATHETERISATION REPORT DT.26.10.04.

PIUS C. KURIAKOSE, J.

W.P.(C) No. 29765 OF 2005

Dated this the 12th day of June, 2007

JUDGMENT

The grievance of the petitioner is that his properties were sold for a price which was far below the current market value. Seeking to set aside the sale Ext.P5 application was filed by him under Order XXI Rule 90 CPC. It was during the pendency of that application the petitioner filed this Writ Petition seeking various reliefs including a direction to the execution court to take an early decision on Ext.P5 application. This Court became inclined to grant stay of further proceedings in execution only on imposing conditions. On 24.10.05, the condition imposed was that Rs.25,000/- should be paid within six weeks. Thereafter on 02.01.06 a further condition that another amount of Rs.25,000/- shall be paid within one month was imposed. While, the learned counsel for the petitioner asserts that the first condition was complied with. Learned counsel is not sure whether the second condition was complied with. Whatever that be, I dispose of the Writ Petition directing the execution court to take an early decision on Ext.P5. It is open to the petitioner to take advantage of the circumstance that during the pendency of this Writ Petition part payments were received by the decree holder towards the decree debt. Decision as directed above will be take by the

execution court on Ext.P5 at the earliest and at any rate within three months of receiving copy of this judgment.

PIUS C. KURIAKOSE, JUDGE

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